



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER 08/612,969	FILING DATE 03/04/96	FIRST NAMED APPLICANT NUSSER	ATTORNEY DOCKET NO. 1231-12
-----------------------------	-------------------------	---------------------------------	--------------------------------

NGUYEN, A

F3M1/0822

CHARLES W CALKINS  
PETREE STOCKTON L.L.P.  
1001 WEST FOURTH STREET  
WINSTON SALEM NC 27101

EXAMINER	
ART UNIT 3307	PAPER NUMBER

DATE MAILED: 08/22/96

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

**Office Action Summary**Application No.  
08/612,969

Applicant(s)

Dennis W. Nusser

Examiner

Anthony Nguyen

Group Art Unit  
3307 Responsive to communication(s) filed on Mar 4, 1996 This action is **FINAL**. Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**

Claim(s) \_\_\_\_\_ is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-9 \_\_\_\_\_ is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

**Application Papers**

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-9 are rejected under 35 U.S.C. § 102(a) as being anticipated by Wang.

Wang teaches a fixed key apparatus having structure as claimed. Column 2 lines 50-65 states the center-to-center dimensions measured vertically and horizontally must fall between a range of 12mm and 21 mm. With respect to claims 7 and 8, see FIG. 4f. It clearly shows structure within the specified ranges.

The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) and (c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 5531529. Although the conflicting

Serial Number: 08/612969  
Art Unit: 3307

-3-

claims are not identical, they are not patentably distinct from each other because they are simply a broadening of the patented claims by omission of the keystroke travel range cited .

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Anthony Nguyen at telephone number (703) 308-2869.



EDGAR S. BURR  
S.P.E.  
GROUP ART UNIT 337

AHN

Aug. 8, 1996